

12.12.2023
Item No.11
Court No.11
Avijit Mitra

**MAT 1894 of 2023
with
IA No. CAN 1 of 2023**

**Achinta Sarkar
- Versus -
Union of India & ors.**

Mr. Debabrata Roy,
Mr. Mahadeb Sarkar,
Ms. Sarbani Mukherjee
...for the appellant
Mr. Kumaresh Dalal
...for the Union of India

The present appeal has been preferred challenging an order dated 18th September, 2023 passed by the learned Single Judge in a writ petition being WPA 20103 of 2023.

Shorn of unnecessary details the facts are that the appellant participated in a selection process for appointment to the post of Constable (GD) in the Central Armed Police Force (in short, Force). He succeeded in the written test, physical standard test, physical efficiency test and thereafter he was called for a medical test. On 25th July, 2023 such medical test was held and due to multiple cut marks on his left hand he was referred to review medical board on 31st July, 2023. Upon examination, the review medical board declared him '*unfit*'. Aggrieved by such decision, the appellant preferred a writ petition which was dismissed by the order dated 18th September, 2023.

Mr. Roy, learned advocate appearing for the appellant submits that after the review medical board report, the appellant consulted a Psychiatrist, who advised some medical tests and he was referred to District Government Hospital at Barasat. Thereafter on 29th August, 2023, he was examined and referred to West Bengal State University, Department of Psychology for diagnostic Psychometry. Such test was conducted on 8th September, 2023 and when the writ petition appeared before the learned Single Judge on 18th September, 2023, he prayed for an adjournment as final report was awaited. However, such prayer was refused.

Mr. Roy argues that the review medical examination was not conducted in consonance with the guidelines towards such examination. Though such argument was advanced, the learned Single Judge did not return any finding on the same and such infirmity warrants interference of this Court. Let the guidelines, as produced, be kept on record.

He submits that the appellant was finally examined by the Clinical Psychologists on 19th September, 2023 and a perusal of the medical report would reveal that it does not agree with the opinion of the review medical board and in such circumstances, a further medical examination should be conducted by an independent body.

Mr. Dalal, learned advocate appearing for the respondents denies and disputes the contention of the appellant and submits that a perusal of the review medical

board examination as well as the report dated 19th September, 2023, upon which reliance has been placed by the appellant, would clearly reveal that the appellant is suffering for psychiatric problems and as such his appointment in the Force cannot be considered.

In reply, Mr. Roy submits that there is no specific finding in the report that the appellant is suffering from psychiatric problems and one of the doctors on 29th September, 2023 had opined that the appellant is '*clinically, psychologically fit at present*'.

Heard the learned advocates appearing for the respective parties and considered the materials on record.

In the first medical test report it was observed that there are '*hesitation cut marks on left hand*'. In the review medical board such cut marks were noted and it was opined that '*the appellant was having a tendency of deliberate self harm*' and as such he was declared '*unfit*'. In course of Psychological evaluation on 8th September, 2023, the appellant himself stated that he was impulsive and he decided to cut his hand with a blade. The report dated 19th September, 2023 also states that the appellant is having compulsive traits in his personality. It is not a case that different authorities have expressed diametrically opposite medical opinion. Considering all the reports together it cannot be ruled out that the appellant is having psychiatric problems and taking note of the fact that he was seeking appointment in the Force, the learned Single Judge refused

to exercise discretion in his favour and we do not find any patent error of law in such decision.

Accordingly, the appeal and the connected application are dismissed.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, upon compliance of all requisite formalities.

(Gaurang Kanth, J.)

(Tapabrata Chakraborty, J.)